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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,087	09/19/2003	Benjamin R. Reineck	60130-1751;03MRA0137	8444

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/666,087

Applicant(s)

REINECK, BENJAMIN R.

Examiner

Marc Jimenez

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09192003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, Claims 1-10 in the reply filed on 8/25/04 is acknowledged.
2. Claims 11-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claim 1-4, 6, 8, and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers (2,085,829).

Rogers teaches a method of fabricating an axle beam comprising the steps of: bending a plate A having a varied cross section **9,5** to form an enclosed shape (figure 3) with first and second segments **6** abutting each other **10**, and joining the first and second segments **10** to each other.

Regarding claim 2, the plate A is deformed into a stepped cross-section from a plate

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having a uniform cross-section because the plate is rolled to the different thickness cross section (col. 2, lines 31-33).

Regarding claim 3, the plate includes a length and a width, the length greater than the width and the stepped cross-section **9,5** extending longitudinally along the plate.

Regarding claim 4, the plate is bent laterally so that longitudinal edges **10** abut forming the enclosed shape.

Regarding claim 6, the first and second segments **6** are of common thickness.

Regarding claim 8, note the top and bottom sections **7,8** with greater thickness than the first and second side sections **6,5**.

Regarding claim 10, note that the first and second segments **6** form one of the first and second side sections.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Nees et al. (US 6,722,037).

Rogers teaches that the third and forth segments **7,8** have thickness larger than the first

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and second segments and abutting the segments to form the sides rather than either one of the top or bottom sections. However, Rogers does not specifically teach that the third and fourth segments have a thickness less than the first and second segments and abutting the first and second segments to form one of the top or bottom sections.

Nees et al. teach that it is interchangeable to have an abutment **26** that can be either formed from thicker segments **24** or thinner segments **22**. As shown in figures 2 and 4, the thicker portions could be interchangeable with the thinner portions.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Rogers with the abutment such that the third and fourth segments have thickness less than the first and second segments, in order to provide an abutment that has more surface area for the welded connection.

Furthermore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have created the abutment at the top **7** or bottom **8** of Rogers in figure 3, in light of the teachings of Nees et al. at figures 3 and 5, in order to provide an attachment that can be easily welded from above the beam.

7. **Claims 1-6, 8, and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [AAPA] (page 1, paragraphs [0002] and [0003] in view of Rogers.

[AAPA] teaches that conventional axle beams are made from a single sheet of material that is rolled or folded to abut along longitudinal segments.

However, [AAPA] does not specifically teach that the sheet has a varied cross-section.

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Rogers teaches a beam that has a varied cross-section **9,5**.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided [AAPA] with a varied cross-section, in light of the teachings of Rogers, in order to provide a beam that has the desired strength requirements along the length of the beam.

Regarding claims 2-4, 6, and 8, Rogers teaches that the plate **A** is deformed into a stepped cross-section from a plate having a uniform cross-section because the plate is rolled to the different thickness cross section (col. 2, lines 31-33); the plate includes a length and a width, the length greater than the width and the stepped cross-section **9,5** extending longitudinally along the plate; the plate is bent laterally so that longitudinal edges **10** abut forming the enclosed shape; the first and second segments **6** are of common thickness; the top and bottom sections **7,8** have greater thickness than the first and second side sections **6,5**; and the first and second segments **6** form one of the first and second side sections. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of [AAPA] with the particulars of claims 2-4, 6, and 8, in light of the teachings of Rogers, in order to provide a beam that can be easily formed while having the desired strength requirements along the length of the beam.

Regarding claim 5, it is inherent that the [AAPA] axle beam is attached to end assemblies.

8. **Claims 7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over [AAPA] in view of Rogers as applied to claim 1 above, and further in view of Nees et al.

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Rogers teaches that the third and forth segments **7,8** have thickness larger than the first and second segments and abutting the segments to form the sides rather than either one of the top and bottom sections. However, Rogers does not specifically teach that the third and forth segments have a thickness less than the first and second segments and abutting the first and second segments to form one of the top or bottom sections.

Nees et al. teach that it is interchangeable to have an abutment **26** that can be either formed from thicker segments **24** or thinner segments **22**. As shown in figures 2 and 4, the thicker portions could be interchangeable with the thinner portions.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of [AAPA]/Rogers with the abutment such that the third and forth segments have thickness less than the first and second segments, in order to provide an abutment that has more surface area for the welded connection.

Furthermore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have created the abutment at the top **7** or bottom **8** of Rogers in figure 3, in light of the teachings of Nees et al. at figures 3 and 5, in order to provide an attachment that can be easily welded from above the beam.

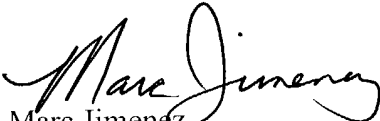
Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 273-4530. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Marc Jimenez
Patent Examiner
AU 3726

MJ

November 23, 2004

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